

Reflections on integration and access to nationality/citizenship through naturalisation

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REFLECTIONS ON INTEGRATION AND ACCESS TO NATIONALITY/CITIZENSHIP THROUGH NATURALISATION

A COMPARATIVE PERSPECTIVE

GERARD-RENÉ DE GROOT

Introductory remarks

When speaking about the integration of foreigners the emphasis is normally put on facilitating the integration of newcomers in the receiving country, on the integration process and integration policy. Attention also has to be given to so-called 'integration requirements', which in several countries have to be fulfilled by applicants for naturalisation, i.e. for the grant of the nationality of the receiving country and which in turn gives access to full citizenship rights.

Many countries require that the applicant for naturalisation has to be integrated in order to qualify. This is the case in the Netherlands for example, where Art. 8 of the Nationality Act stipulates that the applicant has to be '*ingeburgerd*',¹ which can be translated as 'integrated'. Several other countries have a similar requirement, such as France² and the UK.³ In the past Belgium also had this requirement, but it was abolished as a condition for naturalisation in March 2000.⁴

In 1984 a discussion took place in the Netherlands on how to interpret this condition of integration on the occasion of the preparation of a new Nationality Act. It was stressed several times and by several authors that this condition should not be misunderstood as 'assimilation'.⁵ This point was and still is important because some countries require a certain degree of assimilation for naturalisation. In France, for instance, an application for naturalisation can be rejected owing to a lack of assimilation.⁶

What is the difference between integration and assimilation? Integration requires participation in the society. Isolation is not permitted. But being a part of a cultural minority is permitted. It is the process whereby migrants acquire full rights and can fully participate in a society without

¹ The term '*ingeburgerd*' is remarkable, because it includes the word '*burger*', which means 'citizen'. The word seems to suggest that the person involved already became a *burger* (citizen) (compare the German term '*Einbürgerung*'). Within the scope of Art. 8 of the Nationality Act, '*ingeburgerd*' has to be translated as 'integrated'.

² See 21-4, 21-24 and 21-25 of the Code civil.

³ See Schedule 1 of the British Nationality Act of 1981, which entered into force on 1 January 1983.

⁴ See Arts. 15(2), 16(2), 21(2) of the (old) Belgian Nationality Act: "*volonté d'intégration*".

⁵ See G.-R. de Groot, *Handboek Nieuw Nationaliteitsrecht*, Deventer: Kluwer, 2003, pp. 271-76, with further references.

⁶ See Art. 21-24 of the Code civil: "*Nul ne peut être naturalisé s'il ne justifie de son assimilation à la communauté française, notamment par une connaissance suffisante, selon sa condition, de la langue française et des droits et devoirs conférés par la nationalité française*" (text as modified by Act No. 2003-1119 of 26 November 2003). Translated on Legifrance as "Nobody may be naturalised unless he proves his assimilation into the French community, and especially owing to a sufficient knowledge of the French language, according to his condition and of the rights and duties conferred by French nationality."

being forced to assimilate into the mainstream culture. On the other hand, assimilation requires sharing the values of the mainstream culture of a certain society. Of course, it is necessary to take into account that one has to study in detail whether an integration requirement in a certain state really only requests integration or secretly includes elements of assimilation. Finally, the dividing line between assimilation and integration depends completely on the kinds of questions posed during the assessment and the method of assessing.

In this respect, a recent discussion⁷ in Germany is interesting, which concerned the list of questions used by naturalisation authorities in Baden-Wuerttemberg in order to assess the attitude of a naturalisation applicant towards the German constitutional order. The requirement of the German nationality law that the applicant must have a positive attitude towards the democratic values of the constitution can – as such – be classified as an integration requirement.⁸ The list of questions has been criticised in the press as a “Muslim-test”.⁹ I will not elaborate here on the precise content of the questions,¹⁰ but want to stress only that one can observe in the discussion about this list some elements dealing with the borderline between ‘integration’ and ‘assimilation’. Does one want to accept a pluralistic inclusion model leading to a multicultural society or not?

1. The assessment of integration as a requirement for naturalisation

In those countries where integration is a requirement for naturalisation an important issue is how to assess whether an applicant for naturalisation is ‘integrated’. In this regard, I focus on two main countries: the Netherlands and the UK.¹¹

1.1 The Netherlands

Until 2003, assessments of the degree of integration in the Netherlands occurred quite informally at the municipal level. An applicant for naturalisation had an interview with a civil servant of the municipality of his/her place of residence. This civil servant evaluated whether the integration condition was fulfilled. A consequence of this informal approach was that the

⁷ See *inter alia* the intervention of the Fraktion Bündnis 90/Die Grünen in the German parliament (Bundestag), No. 16/356.

⁸ Compare with para. 11 of the German Nationality Act: *Ein Anspruch auf Einbürgerung nach § 10 besteht nicht, wenn:*

1. *der Ausländer nicht über ausreichende Kenntnisse der deutschen Sprache verfügt,*
2. *tatsächliche Anhaltspunkte die Annahme rechtfertigen, dass der Ausländer Bestrebungen verfolgt oder unterstützt oder verfolgt oder unterstützt hat, die gegen die freiheitliche demokratische Grundordnung, den Bestand oder die Sicherheit des Bundes oder eines Landes gerichtet sind oder eine ungesetzliche Beeinträchtigung der Amtsführung der Verfassungsorgane des Bundes oder eines Landes oder ihrer Mitglieder,*
zum Ziele haben oder die durch Anwendung von Gewalt oder darauf gerichtete Vorbereitungshandlungen auswärtige Belange der Bundesrepublik Deutschland gefährden, es sei denn, der Ausländer macht glaubhaft, dass er sich von der früheren Verfolgung oder Unterstützung derartiger Bestrebungen abgewandt hat.

⁹ See “Migration und Bevölkerung”, *Newsletter Ausgabe*, No. 1, February 2006. See also <http://www.migration-info.de> and <http://www.bundestag.de/bic/plenarprotokolle/pp/11/index.html>.

¹⁰ The list with questions is retrievable from http://www.migration-info.de/dokument_und_materialien/deutschland.htm (Rubrik Integration Allgemein – Debatte).

¹¹ It would be very interesting to compare the content of the tests in the Netherlands and in the United Kingdom with the list of questions used in Baden-Württemberg or with the draft *Staatsbürgerchaftsprüfungs-Verordnung* in Austria.

level of integration required for naturalisation differed considerably from place to place.¹² The level required depended enormously on the criteria used by the civil servant in question. A current joke was that in some conservative areas of the country one was required to sing the national anthem, whereas for Amsterdam it would have been enough if one discovered the room in the town hall where the interview would take place.

In light of this it is not surprising at all that the decision was taken to unify the assessment of integration. Since 1 April 2003 applicants have had to undertake two integration tests:

- 1) one test assesses the person's command of the Dutch language; and
- 2) another test assesses the individual's knowledge of society in the Netherlands and its constitutional order ('*staatsinrichting*').

As such, this uniform approach is very welcome. But everything depends of course on the precise method of testing and the kinds of questions that have to be answered. Both tests have to be undertaken electronically through the use of a computer. Elementary IT skills are thus a third requirement for the applicant for naturalisation in the Netherlands. In the language test, oral and written, passive and active command of the Dutch language is tested. The language test (involving 3 hours and 105 questions/tasks) is divided into four parts: listening (40 minutes for 25 questions); speaking (20 minutes for 20 tasks); reading (60 minutes for 25 questions); and writing (60 minutes for 20 tasks).¹³ The Life in the Netherlands test takes 60 minutes and consists of 40 questions.

It is notable that the questions in the test for knowledge of the society and the constitutional order of the Netherlands focus intensively on national issues. The applicant is confronted with questions such as how much money one is allowed to receive per month tax-free for work as a volunteer.¹⁴ Another question is even more subject to criticism. The computer produces a sound like 'bananas, bananas for sale', followed by a multiple choice question: Where are you? 1) in a supermarket, 2) at the market place, or 3) in a flower shop. I strongly dislike these types of questions, which have nothing to do with any basic knowledge necessary for living in the Netherlands or the basic values reflected in the constitutional order of the country.

It has to be stressed that these tests have to be undertaken by applicants for naturalisation already living in the Netherlands, but also by applicants who are living abroad (e.g. spouses of Dutch nationals living abroad with their Dutch husband or wife).¹⁵ Particularly in the case of residence abroad, it will be extremely difficult to acquire the required level of knowledge.

1.2 United Kingdom

The Nationality, Immigration and Asylum Act of 2002 incorporated provisions into the British Nationality Act requiring those seeking naturalisation in the UK to demonstrate that they have a

¹² See E. Heijs, *Selectie bij naturalisatie: de rol van taalkennis als eis voor het Nederlanderschap*, Katholieke Universiteit, Faculteit der Rechtsgeleerdheid, Instituut voor Rechtssociologie, Nijmegen, 1988.

¹³ This information was derived from *De naturalisatietoets: op weg naar het Nederlanderschap* published by the Netherlands' Ministerie van Justitie, Immigratie en Naturalisatie Dienst, November 2004.

¹⁴ Oral information was provided by Mr H.A. Wolf, leader of the integration test project of the Immigration and Naturalisation Department during a presentation in spring 2003. See also H.A. Wolf, "De vernieuwde naturalisatietoets" [The new naturalisation test], *Migrantenrecht*, Vol. 18, No. 4-5, 2003, pp. 124-25 (but with fewer details).

¹⁵ See G.-R. de Groot, "The Access to European Citizenship for Third Country Spouses of a European Citizen", in C. Biquet-Mathieu (ed.), *Liber Amicorum Paul Delnoy*, Brussels: Larcier, 2005, pp. 93-133.

sufficient understanding of English (or Welsh or Scottish Gaelic) and a sufficient knowledge of life in the UK. These provisions entered into force on 1 November 2005.

Regarding the command of English for speakers of other languages (ESOL), the level of entry 3 or above is required. ESOL entry 3 implies “the ability to hold a conversation on an unexpected topic, which is workable, though not perfect, English”.¹⁶

The test on Life in the UK consists of 24 multiple choice questions.¹⁷ In order to enable applicants to prepare for the test, a book is published by the UK Home Office – *Life in the United Kingdom: A Journey to Citizenship*.¹⁸ A candidate only has to know in detail the chapters on “A changing society”, “Britain today” and “How is Britain governed”.¹⁹ Together these chapters make up 32 pages.

The kinds of questions used in the Life in the UK test are also published on the Internet on a Life in the UK website.²⁰ Some questions are slightly strange and require that one has studied the book precisely. For example, one of the questions being posed is how many young people there are in the UK.²¹ The question is obviously related to the information provided on p. 45 in the book, where it is mentioned that within the UK there are 15 million children and young persons up to the age of 19. But why does the book mention the number of young persons up to the age of 19, when the age of majority is 18?

Another question concerns where the Geordie, Cockney and Scouse dialects are spoken. The answer can be found on p. 52 in *Life in the United Kingdom*. Geordie is spoken in Tyneside, Cockney in London and Scouse in Liverpool. The relevance of these questions is dubious. Is it really necessary to know these answers if one wants to live as a British citizen in the UK?

Some other questions really matter:²²

- What are the minimum ages for buying alcohol and tobacco?²³
- What drugs are illegal?²⁴

While a couple of questions are remarkable:²⁵

- What are the rules and powers of the main institutions of Europe?²⁶
- How is EU law organised?²⁷

¹⁶ See the Home Office for England and Wales, *Life in the United Kingdom: A Journey to Citizenship*, Norwich: HM Stationery Office for Books, 2005, p. 11.

¹⁷ Further information is available online (retrieved from http://www.lifeintheuktest.gov.uk/textsite/self_10.html).

¹⁸ Home Office for England and Wales (2005), op. cit.; the book is also available online (<http://www.tsoshop.co.uk>).

¹⁹ These chapters are available online (retrieved on 25 November 2005 from http://www.ind.homeoffice.gov.uk/ind/en/home/news/press_releases/becoming_a_uk_citizen.html).

²⁰ The website for the Life in the UK test is http://www.lifeintheuktest.gov.uk/htmlsite/background_10.html (last visited on 23 February 2006).

²¹ Ibid.

²² Ibid.

²³ Home Office for England and Wales (2005), op. cit., p. 46.

²⁴ Ibid., p. 47.

²⁵ See again the Life in the UK test (retrieved from http://www.lifeintheuktest.gov.uk/textsite/self_90.html).

²⁶ Home Office for England and Wales (2005), op. cit., pp. 70-71.

As such, one has to welcome questions that do not focus on the UK alone but on Europe. Yet these questions are rather vague and not easy even for specialist in EU law. Everything depends on the precise structure of the multiple choice alternatives during the test.²⁸

1.3 Some critical remarks

It is striking that both the Netherlands and the UK are controlling for the command of their own languages. In the context of an integration condition for naturalisation, this is rather surprising. If a third-country national acquires the nationality of a member state of the EU, s/he is entitled immediately upon naturalisation to move and settle in another member state of the Union, even if s/he does not speak a single word of the official language of that other member state. In light of this situation the question must unavoidably be raised as to whether it should be possible in certain circumstances to substitute a deficient knowledge of the language of the country of residence with knowledge of the language of another member state. This is a sensitive but essential question. If one wants to control for the command of language as a manifestation of integration, then integration in multilingual Europe should be assessed and the naturalisation authorities should no longer completely and exclusively focus on the command of the language of the country of residence.²⁹

A similar remark has to be made for the test on the knowledge of the society. The questions focus mainly on knowledge of the life in the country where the person involved applied for naturalisation. That is regrettable. It would be much better if the questions were to focus on integration in European society as a whole – on the basic values and norms in Europe, and the democratic tradition and human rights.

1.4 Comparison

1.4.1. Available communication on the content of the tests/materials

In the Netherlands the information available about the content of the tests is extremely poor: questions are mostly kept confidential. There are no specific courses for preparation for the tests that are part of the naturalisation procedure. Of course, there are courses for the integration tests for newcomers. But not all newcomers are obliged to follow these courses.³⁰ For the naturalisation tests as such detailed information is lacking and no specific preparation is offered. That is not acceptable.

The information available in the UK is detailed. As already mentioned, a book has been published, which one should study as preparation for the questions in the Life in the UK test.³¹ Furthermore, the UK Home Office's website indicates the topics the questions concern.

²⁷ Ibid., p. 71.

²⁸ The website only provides an indication of the topics on which questions will be raised during the exam and does not provide precise samples.

²⁹ G.-R. de Groot, *Towards a European Nationality Law/Vers un Droit Européen de Nationalité*, Inaugural lecture delivered on 13 November 2003 on the occasion of the acceptance of the Pierre Harmel chair of professeur invité at the Université de Liège, Maastricht: Unigraphic, 2004. Also published in: H. Schneider, *Migration, Integration and Citizenship, A Challenge for Europe's Future*, Volume I, Maastricht: Forum Maastricht, University of Maastricht, 2005, pp. 13-54.

³⁰ This is particularly problematic for those applicants for naturalisation who reside abroad, e.g. the foreign spouses of Dutch nationals.

³¹ In this respect the UK follows the examples of Canada and the US. See www.cic.gc.ca/english/citizen/howto-e.html (with further references) and http://www.usimmigrationsupport.org/citizenship_test.html (with further references).

1.4.2 Costs

The costs of the tests differ considerably. In the UK the cost of the language and the Life in the UK test is £34 (€50). The naturalisation fee as such is £268 (€393). In the Netherlands the costs for both tests are €260.³² The naturalisation fee is €351.

2. Some conclusions

The following conclusions and suggestions can be made based on the brief comparison presented of the integration tests in the Netherlands and the UK:

- 1) An inventory should be prepared of details of the integration requirements in the different member states of the EU as a condition for naturalisation, in order to obtain a view on good practices. More specifically,
 - a) A comparison should be made of the methods of assessing the integration requirements.
 - b) A detailed³³ comparison has to be made on the precise level of command of the language that is required as a condition for naturalisation.
 - c) A detailed³⁴ comparison should be made of the types of questions concerning life in the receiving society.
- 2) Transparent and full information on the content of the integration tests should be encouraged.
- 3) The relationship between general integration programmes and integration tests as a part of the naturalisation procedure has to be studied.
- 4) If a member state of the EU requires integration as a condition for naturalisation, integration should be required in EU society and not in the national society. This approach needs to be reflected in:
 - a) the kinds of questions posed; and
 - b) a certain compensation mechanism in respect of command of the language. To some extent, knowledge of the language of another member state of the EU should compensate for a deficient skill in the language of the state in which the individual has applied for naturalisation.³⁵

Summa summarum: In respect of integration requirements as a condition for naturalisation, the development of an EU policy is desirable.

3. Towards European integration tests?

In the first place, at the EU level it would not make sense to develop tests on the command of the different European languages. Nevertheless, it would be desirable to indicate – as precisely as possible – the required level of these language tests. Furthermore, it would be desirable to

³² The costs are €168 for the Life in the Netherlands test and €92 for the language test.

³³ Only the details (and not the global reference to certain levels) give an adequate impression of the difficulty of the different tests and allow a comparison.

³⁴ Again, only the details show the issues (national or European) on which the different tests focus and allow an assessment of whether integration or rather assimilation is required.

³⁵ See G.-R. de Groot (2004), op. cit.

develop a common EU rule as to how far the knowledge of the language of another member state may compensate for deficient skills in the language of the state in which a person applies for naturalisation.

In view of the foregoing conclusions the question of whether the development of European integration tests ('Life in Europe') would be desirable has to be raised and addressed. In the first instance, one has to underpin the argument that the development of good European tests would be considerably better than continuing bad national tests. But second and unavoidably, the question must be posed as to the goal of a Life in Europe test. As such, a long legal residence in a country should already – in principle – entitle a person to the nationality of that country and (for the EU member states) EU citizenship. A person who has been able to live a long period in the country concerned should be deemed to be integrated in that country. Only in the case of an application for quicker naturalisation (after a shorter period of residence) is it reasonable to require an additional integration test. The core question is then of course after what period – in principle – an entitlement to naturalisation should exist. On this point, Art. 6 of the 1997 European Convention on nationality provides inspiration.³⁶ In particular, subsection 3 of Art. 6 prescribes:

Each State Party shall provide in its internal law for the possibility of naturalisation of persons lawfully and habitually resident on its territory. In establishing the conditions for naturalisation, it shall not provide for a period of residence exceeding ten years before the lodging of the application.

³⁶ Already 15 European states have ratified this Convention (of which 9 are member states of the EU) and another 11 states have signed the Convention (7 being EU member states).